

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

SHANNON R. HOPSON,

Petitioner,

v.

PEOPLE OF THE STATE OF
CALIFORNIA,

Respondent.

Civil 10-2485 H (POR)
No.

**SUMMARY DISMISSAL OF
SUCCESSIVE PETITION PURSUANT
TO 28 U.S.C. § 2244(b)(3)(A)
GATEKEEPER PROVISION**

Petitioner, a state prisoner proceeding pro se, has submitted a Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254, along with a request to proceed in forma pauperis. The Court does not rule on Petitioner's request to proceed in forma pauperis because this case is summarily dismissed pursuant to 28 U.S.C. § 2244(b)(3)(A) as indicated below.

PETITION BARRED BY GATEKEEPER PROVISION

The instant Petition is not the first Petition for a Writ of Habeas Corpus Petitioner has submitted to this Court challenging his June 25, 2001 conviction in San Diego Superior Court case No. SCD 146596. On June 3, 2003, Petitioner filed in this Court a Petition for Writ of Habeas Corpus in case No. 03cv1115. In that petition, Petitioner challenged his conviction in San Diego Superior Court case No. SCD 146596 as well. On April 30, 2004, this Court denied the petition on the merits. (*See* Order filed April 30, 2004 in case No. 03cv1115 K (POR) [Doc. No. 30].) Petitioner appealed that determination. On June 20, 2006, the Ninth Circuit Court of

1 Appeals vacated and remanded the appeal with instructions to the district court to dismiss
2 Petitioner's Rule 60(b) motion, which the Court previously denied for lack of subject matter
3 jurisdiction. (*See Order in Hopson v. Director of Correction*, No. 04-57196 (9th Cir. Jul. 31,
4 2006).) This Court dismissed the Rule 60(b) motion as directed, leaving the order denying the
5 Petition intact.

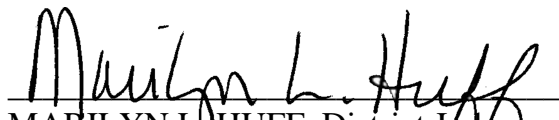
6 Petitioner is now seeking to challenge the same conviction he challenged in his prior
7 federal habeas petition. Unless a petitioner shows he or she has obtained an Order from the
8 appropriate court of appeals authorizing the district court to consider a successive petition, the
9 petition may not be filed in the district court. *See* 28 U.S.C. § 2244(b)(3)(A). Here, there is no
10 indication the Ninth Circuit Court of Appeals has granted Petitioner leave to file a successive
11 petition.

12 CONCLUSION

13 Because there is no indication Petitioner has obtained permission from the Ninth Circuit
14 Court of Appeals to file a successive petition, this Court cannot consider his Petition.
15 Accordingly, the Court **DISMISSES** this action without prejudice to Petitioner filing a petition
16 in this court if he obtains the necessary order from the Ninth Circuit Court of Appeals.

17 IT IS SO ORDERED.

18 Dated: December 9, 2010

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20 MARILYN L. HUFF, District Judge
21 UNITED STATES DISTRICT COURT
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